

Chapter 30: USE OF VILLAGE PROPERTY AND FACILITIES

Littering — See Ch

Village Parks — See Ch 90

§ 30-1. Legislative intent.

It is the legislative intent of the Village Board of the Village of South Blooming Grove to establish a local law that would properly govern the Village's Property and facilities that was conveyed to the Village from the Town of Blooming Grove, as a function of New York State Village Law, on January 1, 2008. The Town of Blooming Grove created and governed these Village's properties and facilities for many years prior to the incorporation of the Village and the Village Board wishes to govern these Village's Properties and facilities.

§ 30-2. Permit required.

Any person or group seeking to use Village property or facilities must first obtain a permit approved by the Village Board. A permit may be granted only to a bona fide nonprofit group or person who seeks to use Village property or facilities for a legal and safe use and for a nonprofit or community purpose. The Village Board shall grant such permit, unless the Board determines that there exists any one or more of the grounds set forth in § 30-10 below. A group or person must apply for a permit at least 15 days prior to the planned use of Village property or facilities. However, if the applicant demonstrates that a shorter time period for decision is necessary due to the time-sensitive nature of the intended use or event and if the applicant demonstrates that the applicant could not have earlier applied for the permit, then the Village Board shall hold a special meeting in order to act on the application.

§ 30-3 Acceptance of property and facilities; assumption of risk.

All Village property and facilities shall be accepted by all users in an as-is condition. The Village specifically denies and excludes any representations or warranties of any kind, express or implied, regarding the use of Village property and facilities. Use of such property and facilities by permittees, participants, spectators, invitees and any others constitutes an assumption of risk by all such persons and acceptance of the terms of this chapter.

§ 30-4. Indemnification and hold harmless agreement.

The applicant and any and all other persons using Village property or facilities pursuant to this chapter are deemed to agree to and shall indemnify and hold harmless the Village of South Blooming Grove from any and all claims, injuries, damages, liability, expense and cost whatsoever (together "claim") arising from such use. Any person injured or whose property is damaged shall seek recovery from the liability insurance, if any, provided pursuant to this chapter or to his or her own insurance or resources, and not from the Village.

§ 30-5. Responsibility for damages; cleaning; deposit.

The applicant shall be responsible to, and shall, repair any damage to Village property or facilities caused by the applicant or applicant's group. The applicant shall be responsible to, and shall, clean the property and facilities after each use. The applicant shall submit to the Village Clerk-Treasurer a cash deposit to secure or defray the cost of repairing damage and cleaning. The deposit shall be in an amount set forth by resolution of the Village Board, which amount may be amended from time to time. If there is no damage and the property and facilities are properly cleaned after use, the deposit shall be returned. If the cost of repairing damage or cleaning exceeds the amount of the deposit, the applicant shall be required to, and shall, pay the cost of repairing damage and/or cleaning.

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§ 30-6. Insurance.

- A. Each applicant who seeks to use a Village building for any purpose or who seeks to use Village property for an organized sport, recreational, picnic or similar purpose shall provide liability insurance, naming the Village of South Blooming Grove as an additional insured, in the minimum amount of \$1,000,000. For organized sport, recreation, picnic or similar uses, the Village Board may require a greater amount on a case-by-case basis.
- B. An applicant who seeks to use Village property outside of a building for First Amendment purposes shall not be required to provide liability insurance.

§ 30-7. Scope of use; supervision.

No person shall be authorized or allowed to use or enter upon Village property or facilities pursuant to this chapter except to the extent authorized by permit. All minors shall be supervised by parents or persons over the age of 21. The Village shall have no duty of supervision.

§ 30-8. Notice of requirements.

The permittee shall provide notice of all requirements of this chapter to all participants, spectators, invitees, and others using Village property or facilities pursuant to a permit issued pursuant to this chapter. The Village shall have no duty to give such notice. Failure of the permittee to provide such notice shall impose no liability or responsibility upon the Village.

§ 30-9. Permit application fee.

Each permit applicant shall pay a permit application fee upon submission of the application. The fee shall be established by resolution of the Village Board and may be amended from time to time.

§ 30-10. First Amendment activity.

Use of Village-owned traditional public forums for First Amendment activity is permitted pursuant to this chapter. A traditional public forum is Village-owned property that has been traditionally available for expressive activity by members of the public. Village-owned streets, sidewalks and parks are deemed traditional public forums.

§ 30-11. Permit denial.

- A. The Village Board may deny a permit application based on one or more of the following grounds:
 - (1) The application for permit, including the permit fee and any required attachments and submissions, is not fully completed and executed.
 - (2) The applicant fails to submit the required indemnification agreement, insurance certificate or damage/cleaning security deposit.
 - (3) The application contains a material falsehood or misrepresentation.
 - (4) The applicant or the person on whose behalf the application for permit is made has on a prior occasion made a material falsehood or misrepresentation concerning the nature or scope of a use, event or activity previously permitted or has violated this chapter or the term of a prior permit issued to or on behalf of the applicant or such person.
 - (5) The applicant is legally incompetent to contract or to sue and be sued.

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- (6) The applicant or the person on whose behalf the application for permit is made has on a prior occasion damaged or failed to clean a Village-owned property or facility and has not paid in full for the repair of such damage or for such cleaning.
 - (7) A proper permit application to use a Village-owned property or facility at the same time and place has been previously received, and a permit has been or will be granted to such prior applicant authorizing uses or activities, which do not reasonably permit multiple use or activity of the property or facility.
 - (8) The use or activity intended by the applicant would conflict with a previously planned use, activity or event organized or conducted by the Village.
 - (9) The use or activity intended by the applicant would present an unreasonable danger to the health or safety of the applicant, participants, invitees, other users of Village-owned property or facilities, Village employees or the public.
 - (10) Any applicable law or regulation, including this chapter, prohibits the use or activity intended by the applicant.
 - (11) The use or activity is intended to be conducted between the hours of 10:00 p.m. and 8:00 a.m.
- B. The Village Board shall set forth in writing the ground(s) for denial and, where feasible, suggest measures to cure the defect(s) or suggest an alternative location(s).

§ 30-12. Appeal of permit denial.

The applicant may appeal a permit denial in writing to the Village Board within seven days after the date of the denial. The Village Board must act on the appeal at its next regularly scheduled Village Board meeting and set forth in writing its reasons for granting or denying the appeal. If the applicant demonstrates that a Village Board decision on appeal prior to the next regularly scheduled Village Board meeting is necessary due to the time-sensitive nature of the intended use or activity, and if the applicant demonstrates that the applicant could not have earlier applied for a permit, then the Village Board shall hold a special meeting to consider and act on the applicant's appeal. If the Village Board denies an applicant's appeal, the applicant may seek judicial review pursuant to law.

§ 30-13. Enforcement; penalties for offenses.

- A. Any on duty Police Officer, Building Inspector, Code Enforcement Officer, and / or any other person authorized by resolution of the Village Board, shall enforce this chapter.
- B. Any applicant or person who violates any provision of this chapter or the term of any permit issued pursuant to this chapter shall, upon conviction, be subject to punishment by a fine not to exceed \$350 or imprisonment for a period not to exceed 15 days, or both. Each week's continued violation shall constitute a separate additional violation.
- C. In addition to and not in lieu of the above, any applicant or person who violates any provision of this chapter or the term of any permit issued pursuant to this chapter shall, upon the order of a court of competent jurisdiction, be liable to the Village for a civil penalty in an amount not to exceed \$350. Each week's continued violation shall constitute a separate additional violation.
- D. In addition to and not in lieu of any of the above, the Village Board or any enforcement officer may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct or abate any violation or threatened violation of this chapter or of the term of any permit issued pursuant to this chapter.

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§ 30-14. Authority.

This chapter is enacted by authority of § 20, Subdivision 5, of the Municipal Home Rule Law and any other law referenced herein as authority herefor.

§ 30-14. Repeal.

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

§ 30-15. Supersession of other laws.

This chapter supersedes, and is in derogation of, the Code of the Town of Blooming Grove, County of Orange, and State of New York.

§ 30-16. Effective Date.

This local law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.